

House File 923 - Introduced

HOUSE FILE _____
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 106)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the policy and technical administration of the
2 tax and related laws by the department of revenue, including
3 administration of income, sales, use, cigarette, and tobacco
4 taxes and including a retroactive applicability date
5 provision.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1264HV 82
8 mg/je/5

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1 1 DIVISION I
1 2 TAX ADMINISTRATION
1 3 Section 1. Section 15E.44, subsection 1, Code 2007, is
1 4 amended to read as follows:
1 5 1. In order for an equity investment to qualify for a tax
1 6 credit, the business in which the equity investment is made
1 7 shall, within one hundred twenty days of the date of the first
1 8 investment, notify the board of the names, addresses, ~~taxpayer~~
1 9 ~~identification numbers~~, shares issued, consideration paid for
1 10 the shares, and the amount of any tax credits, of all
1 11 shareholders who may initially qualify for the tax credits,
1 12 and the earliest year in which the tax credits may be
1 13 redeemed. The list of shareholders who may qualify for the
1 14 tax credits shall be amended as new equity investments are
1 15 sold or as any information on the list shall change.
1 16 Sec. 2. Section 15E.45, subsection 3, paragraph a,
1 17 subparagraph (1), Code 2007, is amended to read as follows:
1 18 (1) The names, addresses, ~~taxpayer identification numbers~~,
1 19 equity interests issued, consideration paid for the interests,
1 20 and the amount of any tax credits.
1 21 Sec. 3. Section 421.26, Code 2007, is amended to read as
1 22 follows:
1 23 421.26 PERSONAL LIABILITY FOR TAX DUE.
1 24 If a licensee or other person under section 452A.65, a
1 25 retailer or purchaser under chapter 423A, ~~or~~ 423B, ~~or~~ 423E, or
1 26 section 423.31 or 423.33, or a retailer or purchaser under
1 27 section 423.32, ~~or~~ a user under section 423.34, ~~or~~ permit
1 28 ~~holder or licensee under section 453A.13, 453A.16, or 453A.44~~
1 29 fails to pay a tax under those sections when due, an officer
1 30 of a corporation or association, notwithstanding sections
1 31 490A.601 and 490A.602, a member or manager of a limited
1 32 liability company, or a partner of a partnership, having
1 33 control or supervision of or the authority for remitting the
1 34 tax payments and having a substantial legal or equitable
1 35 interest in the ownership of the corporation, association,
2 1 limited liability company, or partnership, who has
2 2 intentionally failed to pay the tax is personally liable for
2 3 the payment of the tax, interest, and penalty due and unpaid.
2 4 However, this section shall not apply to taxes on accounts
2 5 receivable. The dissolution of a corporation, association,
2 6 limited liability company, or partnership shall not discharge
2 7 a person's liability for failure to remit the tax due.
2 8 Sec. 4. Section 421.27, subsection 1, Code 2007, is
2 9 amended by adding the following new paragraph:
2 10 NEW PARAGRAPH. m. That an Iowa inheritance tax return is
2 11 filed for an estate within the later of nine months from the
2 12 date of death or sixty days from the filing of a disclaimer by
2 13 the beneficiary of the estate refusing to take the property or
2 14 right or interest in the property.
2 15 Sec. 5. Section 421.27, subsection 2, Code 2007, is

2 16 amended by adding the following new paragraph:

2 17 NEW PARAGRAPH. i. That an Iowa inheritance tax return is
2 18 filed for an estate within the later of nine months from the
2 19 date of death or sixty days from the filing of a disclaimer by
2 20 the beneficiary of the estate refusing to take the property or
2 21 right or interest in the property.

2 22 Sec. 6. Section 422.7, subsection 32, Code 2007, is
2 23 amended by adding the following new paragraph:

2 24 NEW PARAGRAPH. c. Add the amount resulting from a
2 25 withdrawal made by a taxpayer from the Iowa educational
2 26 savings plan trust for purposes other than the payment of
2 27 qualified education expenses to the extent previously deducted
2 28 as a contribution to the trust.

2 29 Sec. 7. Section 422.11S, subsection 1, Code 2007, is
2 30 amended to read as follows:

2 31 1. The taxes imposed under this division less the credits
2 32 allowed under sections 422.12 and 422.12B shall be reduced by
2 33 a school tuition organization tax credit equal to sixty=five
2 34 percent of the amount of the voluntary cash or noncash
2 35 contributions made by the taxpayer during the tax year to a
3 1 school tuition organization, subject to the total dollar value
3 2 of the organization's tax credit certificates as computed in
3 3 subsection 7. The tax credit shall be claimed by use of a tax
3 4 credit certificate as provided in subsection 6.

3 5 Sec. 8. Section 422.11S, subsection 2, Code 2007, is
3 6 amended by adding the following new paragraph:

3 7 NEW PARAGRAPH. c. The value of a noncash contribution
3 8 shall be appraised pursuant to rules of the director.

3 9 Sec. 9. Section 422.11S, subsection 6, paragraph d, Code
3 10 2007, is amended to read as follows:

3 11 d. Each school that is served by a school tuition
3 12 organization shall submit a participation form annually to the
3 13 department by ~~October 15~~ November 1 providing the following
3 14 information:

3 15 (1) Certified enrollment as of ~~the third Friday of~~
3 16 ~~September 1, or the first Monday in October if October~~
3 17 ~~1 falls on a Saturday or Sunday.~~

3 18 (2) The school tuition organization that represents the
3 19 school. A school shall only be represented by one school
3 20 tuition organization.

3 21 Sec. 10. Section 422.11S, subsection 7, paragraph b,
3 22 unnumbered paragraph 1, Code 2007, is amended to read as
3 23 follows:

3 24 Each year by ~~November 15~~ December 1, the department shall
3 25 authorize school tuition organizations to issue tax credit
3 26 certificates for the following tax year. However, for the tax
3 27 year beginning in the 2006 calendar year only, the department,
3 28 by September 1, 2006, shall authorize school tuition
3 29 organizations to issue tax credit certificates for the 2006
3 30 calendar tax year. For the tax year beginning in the 2006
3 31 calendar year only, each school served by a school tuition
3 32 organization shall submit a participation form to the
3 33 department by August 1, 2006, providing the certified
3 34 enrollment as of the third Friday of September 2005, along
3 35 with the school tuition organization that represents the
4 1 school. Tax credit certificates available for issue by each
4 2 school tuition organization shall be determined in the
4 3 following manner:

4 4 Sec. 11. Section 422.11S, subsection 8, unnumbered
4 5 paragraph 1, Code 2007, is amended to read as follows:

4 6 A school tuition organization that receives a voluntary
4 7 cash or noncash contribution pursuant to this section shall
4 8 report to the department, on a form prescribed by the
4 9 department, by January 12 of each tax year all of the
4 10 following information:

4 11 Sec. 12. Section 422.12E, unnumbered paragraph 2, Code
4 12 2007, is amended to read as follows:

4 13 If more checkoffs are enacted in the same session of the
4 14 general assembly than there is space for inclusion on the
4 15 individual tax return form, the earliest enacted checkoffs for
4 16 which there is space for inclusion on the return form shall be
4 17 included on the return form, and all other checkoffs enacted
4 18 during that session of the general assembly are repealed. If
4 19 more checkoffs are enacted in the same session of the general
4 20 assembly than there is space for inclusion on the individual
4 21 income tax form and the additional checkoffs are enacted on
4 22 the same day, the director shall determine which checkoffs
4 23 shall be included on the return form.

4 24 Sec. 13. Section 422.13, subsection 5, Code 2007, is
4 25 amended to read as follows:

4 26 5. Notwithstanding subsections 1 through 4 and sections

4 27 422.15 and 422.36, a partnership, a limited liability company
4 28 whose members are taxed on the company's income under
4 29 provisions of the Internal Revenue Code, trust, or corporation
4 30 whose stockholders are taxed on the corporation's income under
4 31 the provisions of the Internal Revenue Code may, not later
4 32 than the due date for filing its return for the taxable year,
4 33 including any extension thereof, elect to file a composite
4 34 return for the nonresident partners, members, beneficiaries,
4 35 or shareholders. Nonresident trusts or estates which are

5 1 partners, members, beneficiaries, or shareholders in
5 2 partnerships, limited liability companies, trusts, or S
5 3 corporations may also be included on a composite return. The
5 4 director may require that a composite return be filed under
5 5 the conditions deemed appropriate by the director. A
5 6 partnership, limited liability company, trust, or corporation
5 7 filing a composite return is liable for tax required to be
5 8 shown due on the return. All powers of the director and
5 9 requirements of the director apply to returns filed under this
5 10 subsection including, but not limited to, the provisions of
5 11 this division and division VI of this chapter.

5 12 Sec. 14. Section 422.16, subsection 12, Code 2007, is
5 13 amended by adding the following new unnumbered paragraph:

5 14 NEW UNNUMBERED PARAGRAPH. Notwithstanding this subsection,
5 15 withholding agents are not required to withhold state income
5 16 tax from a partner's pro rata share of income from a publicly
5 17 traded partnership, as defined in section 7704(b) of the
5 18 Internal Revenue Code, provided that the publicly traded
5 19 partnership files with the department an information return
5 20 that reports the name, address, taxpayer identification
5 21 number, and any other information requested by the department
5 22 for each unit holder with an income in this state from the
5 23 publicly traded partnership in excess of five hundred dollars.

5 24 Sec. 15. Section 422.35, subsection 17, Code 2007, is
5 25 amended to read as follows:

5 26 17. Subtract the amount of the employer social security
5 27 credit allowable for the tax year under section 45B of the
5 28 Internal Revenue Code to the extent that the credit increases
5 29 federal ~~adjusted gross taxable~~ income.

5 30 Sec. 16. Section 422.73, subsection 3, Code 2007, is
5 31 amended by striking the subsection.

5 32 Sec. 17. Section 422.75, Code 2007, is amended to read as
5 33 follows:

5 34 422.75 STATISTICS == PUBLICATION.

5 35 The department shall prepare and publish an annual report
6 1 which shall include statistics reasonably available, with
6 2 respect to the operation of this chapter, including amounts
6 3 collected, classification of taxpayers, and such other facts
6 4 as are deemed pertinent and valuable. The annual report shall
6 5 also include the reports and information required pursuant to
6 6 ~~section 421.1, subsection 4, paragraph "e"; section 421.17,~~
6 7 ~~subsection 13; section 421.17, subsection 27, paragraph "h";~~
6 8 ~~and section 421.60, subsection 2, paragraphs "i" and "l"; and~~
6 9 ~~1997 Iowa Acts, ch. 211, section 22, subsection 5, paragraph~~
6 10 ~~"a".~~

6 11 Sec. 18. Section 423.2, subsection 6, unnumbered paragraph
6 12 2, Code 2007, is amended to read as follows:

6 13 For the purposes of this subsection, "financial
6 14 institutions" means all national banks, federally chartered
6 15 savings and loan associations, federally chartered savings
6 16 banks, federally chartered credit unions, banks organized
6 17 under chapter 524, savings and loan associations and savings
6 18 banks organized under chapter 534, ~~and~~ credit unions organized
6 19 under chapter 533, and all banks, savings banks, credit
6 20 unions, and savings and loan associations chartered or
6 21 otherwise created under the laws of any state and doing
6 22 business in Iowa.

6 23 Sec. 19. Section 423.3, subsection 65, Code 2007, is
6 24 amended to read as follows:

6 25 65. The sales price from charges paid to a provider for
6 26 access to on-line computer services. For purposes of this
6 27 subsection, "on-line computer service" means a service that
6 28 provides or enables computer access by multiple users to the
6 29 internet or to other information made available through a
6 30 computer server or other device.

6 31 Sec. 20. Section 423.3, subsection 80, paragraph b, Code
6 32 2007, is amended to read as follows:

6 33 b. If a contractor, subcontractor, or builder is to use
6 34 building materials, supplies, and equipment in the performance
6 35 of a construction contract with a designated exempt entity,
7 1 the person shall purchase such items of tangible personal
7 2 property without liability for the tax if such property will

7 3 be used in the performance of the construction contract and a
7 4 purchasing agent authorization letter and an exemption
7 5 certificate, issued by the designated exempt entity, are
7 6 presented to the retailer. The sales price of building
7 7 materials, supplies, or equipment is exempt from tax by this
7 8 subsection only to the extent the building materials,
7 9 supplies, or equipment are completely consumed in the
7 10 performance of the construction contract with the designated
7 11 exempt entity.

7 12 Sec. 21. Section 423.41, Code 2007, is amended to read as
7 13 follows:

7 14 423.41 BOOKS == EXAMINATION.

7 15 Every retailer required or authorized to collect taxes
7 16 imposed by this chapter and every person using in this state
7 17 tangible personal property, services, or the product of
7 18 services shall keep records, receipts, invoices, and other
7 19 pertinent papers as the director shall require, in the form
7 20 that the director shall require, for as long as the director
7 21 has the authority to examine and determine tax due. The
7 22 director or any duly authorized agent of the department may
7 23 examine the books, papers, records, and equipment of any
7 24 person either selling tangible personal property or services
7 25 or liable for the tax imposed by this chapter, and investigate
7 26 the character of the business of any person in order to verify
7 27 the accuracy of any return made, or if a return was not made
7 28 by the person, ascertain and determine the amount due under
7 29 this chapter. These books, papers, and records shall be made
7 30 available within this state for examination upon reasonable
7 31 notice when the director deems it advisable and so orders. If
7 32 the taxpayer maintains any records in an electronic format,

7 33 the taxpayer shall comply with reasonable requests by the
7 34 director or the director's authorized agents to provide those
7 35 electronic records in a standard record format. The preceding
8 1 requirements shall likewise apply to users and persons
8 2 furnishing services enumerated in section 423.2.

8 3 Sec. 22. Section 423A.4, unnumbered paragraph 3, Code
8 4 2007, is amended to read as follows:

8 5 A local hotel and motel tax shall be imposed on January 1
8 6 or July 1, following the notification of the director of
8 7 revenue. Once imposed, the tax shall remain in effect at the
8 8 rate imposed for a minimum of one year. A local hotel and
8 9 motel tax shall terminate only on June 30 or December 31. At
8 10 least forty-five days prior to the tax being effective or
8 11 prior to a revision in the tax rate, or prior to the repeal of
8 12 the tax, a city or county shall provide notice by mail of such
8 13 action to the director of revenue. The director shall have
8 14 the authority to waive the notice requirement.

8 15 Sec. 23. Section 423B.1, subsection 6, paragraph b, Code
8 16 2007, is amended to read as follows:

8 17 b. Within ten days of the election at which a majority of
8 18 those voting on the question favors the imposition, repeal, or
8 19 change in the rate of a local option tax, the county auditor
8 20 shall give written notice of the result of the election by
8 21 sending a copy of the abstract of the votes from the favorable
8 22 election to the director of revenue or, in the case of a local
8 23 vehicle tax, to the director of the department of
8 24 transportation. The appropriate director shall have the
8 25 authority to waive the notice requirement.

8 26 Sec. 24. Section 423E.2, subsection 5, paragraph b, Code
8 27 2007, is amended to read as follows:

8 28 b. Within ten days of the election at which a majority of
8 29 those voting on the question favors the imposition, repeal,
8 30 extension, or change in the rate of the tax, the county
8 31 auditor shall give written notice of the result of the
8 32 election by sending a copy of the abstract of the votes from
8 33 the favorable election to the director of revenue. Election
8 34 costs shall be apportioned among school districts within the
8 35 county on a pro rata basis in proportion to the number of
9 1 registered voters in each school district who reside within
9 2 the county and the total number of registered voters within
9 3 the county. The director shall have the authority to waive
9 4 the notice requirement.

9 5 Sec. 25. RETROACTIVE APPLICABILITY DATE. The sections of
9 6 this division of this Act amending section 422.11S,
9 7 subsections 1, 2, and 8, apply retroactively to January 1,
9 8 2007, for tax years beginning on or after that date.

9 9 DIVISION II
9 10 CIGARETTES AND TOBACCO

9 11 Sec. 26. Section 421B.3, Code 2007, is amended by adding
9 12 the following new subsection:

9 13 NEW SUBSECTION. 3. a. The following civil penalties

9 14 shall be imposed for a violation of this section:
9 15 (1) A two hundred dollar penalty for the first violation.
9 16 (2) A five hundred dollar penalty for a second violation
9 17 within three years of the first violation.
9 18 (3) A thousand dollar penalty for a third or subsequent
9 19 violation within three years of the first violation.
9 20 Each day the violation occurs counts as a new violation for
9 21 purposes of this subsection.
9 22 b. The civil penalty imposed under this subsection is in
9 23 addition to the penalty imposed under subsection 1. Penalties
9 24 collected under this subsection shall be deposited into the
9 25 general fund of the state.
9 26 Sec. 27. Section 453A.7, unnumbered paragraph 2, Code
9 27 2007, is amended to read as follows:
9 28 There is appropriated annually from the ~~general fund of the~~
9 29 ~~state the sum of one hundred fifteen thousand dollars state~~
9 30 ~~treasury from funds not otherwise appropriated an amount~~
9 31 ~~sufficient~~ to carry out the provisions of this section.
9 32 Sec. 28. Section 453A.13, subsections 5 and 9, Code 2007,
9 33 are amended to read as follows:
9 34 5. APPLICATION == BOND. ~~Said permits~~ Permits shall be
9 35 issued only upon applications accompanied by the fee indicated
10 1 above, and by an adequate bond as provided in section 453A.14,
10 2 and upon forms furnished by the department upon written
10 3 request. The failure to furnish such forms shall be no excuse
10 4 for the failure to file the ~~same forms~~ unless absolute refusal
10 5 is shown. ~~Said~~ The forms shall set forth all of the
10 6 following:
10 7 a. The manner under which ~~such the~~ distributor,
10 8 wholesaler, or retailer, transacts or intends to transact such
10 9 business as a distributor, wholesaler, or retailer.
10 10 b. The principal office, residence, and place of business,
10 11 ~~for which where~~ the permit is to apply.
10 12 c. If the applicant is not an individual, the principal
10 13 officers or members ~~thereof, not to exceed three,~~ and their
10 14 addresses.
10 15 d. ~~Such Any~~ other information as the director shall by
10 16 rules prescribe.
10 17 9. PERMIT == FORM AND CONTENTS. Each permit issued shall
10 18 describe clearly the place of business for which it is issued,
10 19 shall be nonassignable, consecutively numbered, designating
10 20 the kind of permit, and shall authorize the sale of cigarettes
10 21 in this state subject to the limitations and restrictions
10 22 herein contained. The retail permits shall be upon forms
10 23 furnished by the department or on forms made available or
10 24 approved by the department.
10 25 Sec. 29. Section 453A.13, Code 2007, is amended by adding
10 26 the following new subsection:
10 27 NEW SUBSECTION. 10. PERMIT DISPLAYED. The permit shall,
10 28 at all times, be publicly displayed by the distributor,
10 29 wholesaler, or retailer at the place of business so as to be
10 30 easily seen by the public and the persons authorized to
10 31 inspect the place of business. The proprietor or keeper of
10 32 any building or place where cigarettes and other tobacco
10 33 products are kept for sale, or with intent to sell, shall upon
10 34 request of any agent of the department or any peace officer
10 35 exhibit the permit. A refusal or failure to exhibit the
11 1 permit is prima facie evidence that the cigarettes or other
11 2 tobacco products are kept for sale or with intent to sell in
11 3 violation of this division.
11 4 Sec. 30. Section 453A.15, subsection 2, Code 2007, is
11 5 amended to read as follows:
11 6 2. Where a state permit holder sells cigarettes at retail,
11 7 the holder shall be required to ~~issue an invoice to the~~
11 8 ~~holder's retail department for maintain detailed records for~~
11 9 ~~sales of~~ cigarettes to be sold at retail and ~~such the~~
11 10 ~~cigarette invoices sales records~~ shall be kept separate and
11 11 apart.
11 12 Sec. 31. Section 453A.15, Code 2007, is amended by adding
11 13 the following new subsection:
11 14 NEW SUBSECTION. 7. The director may require by rule that
11 15 reports required to be made under this division be filed by
11 16 electronic transmission.
11 17 Sec. 32. Section 453A.18, Code 2007, is amended to read as
11 18 follows:
11 19 453A.18 FORMS FOR RECORDS AND REPORTS.
11 20 The department shall furnish or make available in
11 21 electronic form, without charge, to holders of the various
11 22 permits, forms in sufficient quantities to enable permit
11 23 holders to make the reports required to be made under this
11 24 division. The permit holders shall furnish at their own

11 25 expense the books, records, and invoices, required to be used
11 26 and kept, but the books, records, and invoices shall be in
11 27 exact conformity to the forms prescribed for that purpose by
11 28 the director, and shall be kept and used in the manner
11 29 prescribed by the director. However, the director may, by
11 30 express order in certain cases, authorize permit holders to
11 31 keep their records in a manner and upon forms other than those
11 32 ~~so~~ prescribed. The authorization may be revoked at any time.

11 33 Sec. 33. Section 453A.24, Code 2007, is amended to read as
11 34 follows:

11 35 453A.24 CARRIER TO PERMIT ACCESS TO RECORDS.

12 1 1. Every common carrier or person in this state having
12 2 custody of books or records showing the transportation of
12 3 cigarettes both interstate and intrastate shall give and allow
12 4 the department free access to ~~such those~~ books and records.

12 5 2. The director may require by rule that common carriers
12 6 or the appropriate persons provide monthly reports to the
12 7 department detailing all information the department deems
12 8 necessary on shipments into and out of Iowa of cigarettes and
12 9 tobacco products as set forth in divisions I and II of this
12 10 chapter. The director may require by rule that the reports be
12 11 filed by electronic transmission.

12 12 Sec. 34. Section 453A.25, subsection 3, Code 2007, is
12 13 amended to read as follows:

12 14 3. ~~The director is hereby authorized to appoint an~~
12 15 ~~assistant, whose sole duty it shall be~~ may designate employees
12 16 to administer and enforce the provisions of this chapter,
12 17 including the collection of all taxes provided for herein in
12 18 this chapter. In ~~such the~~ enforcement, the director may
12 19 request aid from the attorney general, the special agents of
12 20 the state, any county attorney, or any peace officer. The
12 21 director ~~is authorized to~~ may appoint ~~such~~ clerks and
12 22 additional help as may be needed to ~~carry out the provisions~~
12 23 of ~~administer~~ this chapter.

12 24 Sec. 35. Section 453A.30, Code 2007, is amended to read as
12 25 follows:

12 26 453A.30 ASSESSMENT OF COST OF AUDIT.

12 27 The department may employ auditors or other persons to
12 28 audit and examine the books and records of any permit holder
12 29 or other person dealing in cigarettes to ascertain whether
12 30 ~~such the~~ permit holder or other person has paid the amount of
12 31 the taxes required to be paid by the holder or person or filed
12 32 all reports containing all required information as specified

12 33 by the department under the provisions of this chapter. If
12 34 such taxes have not been paid ~~or such reports not filed~~, as
12 35 required, the department shall assess against ~~such the~~ permit
13 1 holder or other person, as additional penalty, the reasonable
13 2 expenses and costs of ~~such the~~ investigation and audit.

13 3 Sec. 36. Section 453A.31, Code 2007, is amended by adding
13 4 the following new unnumbered paragraph:

13 5 NEW UNNUMBERED PARAGRAPH. If a cigarette distributor fails
13 6 to file a return or to report timely, stamps shall not be
13 7 provided to that cigarette distributor until all returns and
13 8 reports are filed properly and all tax, penalties, and
13 9 interest are paid.

13 10 Sec. 37. Section 453A.32, Code 2007, is amended by adding
13 11 the following new subsection:

13 12 NEW SUBSECTION. 6. The provisions of this section
13 13 applying to cigarettes shall also apply to tobacco products
13 14 taxed under division II of this chapter.

13 15 Sec. 38. Section 453A.36, subsection 6, Code 2007, is
13 16 amended to read as follows:

13 17 6. Any sales of cigarettes or tobacco products made
13 18 through a cigarette vending machine are subject to rules and
13 19 penalties relative to retail sales of cigarettes and tobacco
13 20 products provided for in this chapter. ~~No cigarettes shall~~
13 21 Cigarettes shall not be sold through any cigarette vending
13 22 machine unless the cigarettes have been properly stamped or
13 23 metered as provided by this division, and in case of violation
13 24 of this provision, the permit of the dealer authorizing retail
13 25 sales of cigarettes shall be ~~canceled~~ revoked. Payment of the
13 26 license ~~permit~~ fee as provided in section 453A.13 authorizes a
13 27 cigarette vendor to sell cigarettes or tobacco products
13 28 through vending machines. However, cigarettes or tobacco
13 29 products shall not be sold through a vending machine unless
13 30 the vending machine is located in a place where the retailer
13 31 ensures that no person younger than eighteen years of age is
13 32 present or permitted to enter at any time. Cigarettes or
13 33 tobacco products shall not be sold through any cigarette
13 34 vending machine if such products are placed together with any
13 35 nontobacco product, other than matches, in the cigarette

14 1 vending machine. This section does not require a retail
14 2 ~~licensee permit holder~~ to buy a cigarette vendor's permit if
14 3 the retail ~~licensee permit holder~~ is in fact the owner of the
14 4 cigarette vending machines and the machines are operated in
14 5 the location described in the retail permit.
14 6 Sec. 39. Section 453A.36, Code 2007, is amended by adding
14 7 the following new subsection:
14 8 NEW SUBSECTION. 7A. It shall be unlawful for a holder of
14 9 a retail permit to sell or distribute any cigarettes or
14 10 tobacco products, including but not limited to a single or
14 11 loose cigarette, that are not contained within a sealed
14 12 carton, pack, or package as provided by the manufacturer,
14 13 which carton, pack, or package bears the health warning that
14 14 is required by federal law.
14 15 Sec. 40. Section 453A.40, subsection 1, Code 2007, is
14 16 amended to read as follows:
14 17 1. All persons required to ~~be licensed hold a~~
14 18 ~~distributor's permit, wholesaler's permit, or retailer's~~
14 19 ~~permit~~ under section 453A.13 ~~as distributors~~ having in their
14 20 possession and held for resale on the effective date of an
14 21 increase in the tax rate cigarettes or little cigars upon
14 22 which the tax under section 453A.6 or 453A.43 has been paid,
14 23 unused cigarette tax stamps which have been paid for under
14 24 section 453A.8, or unused metered imprints which have been
14 25 paid for under section 453A.12 shall be subject to an
14 26 inventory tax on the items as provided in this section.
14 27 Sec. 41. Section 453A.45, subsection 5, unnumbered
14 28 paragraphs 2 and 4, Code 2007, are amended to read as follows:
14 29 ~~Such~~ The report shall be made on forms provided by the
14 30 director ~~or the director may require by rule that the report~~
14 31 ~~be filed by electronic transmission.~~
14 32 Any person who fails or refuses to transmit to the director
14 33 the required reports or whoever refuses to permit the
14 34 examination of the records by the director shall be guilty of
14 35 a ~~simple~~ serious misdemeanor.
15 1 Sec. 42. Section 453A.46, subsections 1 and 3, Code 2007,
15 2 are amended to read as follows:
15 3 1. On or before the twentieth day of each calendar month
15 4 every distributor with a place of business in this state shall
15 5 file a return with the director showing for the preceding
15 6 calendar month the quantity and wholesale sales price of each
15 7 tobacco product brought, or caused to be brought, into this
15 8 state for sale; ~~and made, manufactured, or fabricated in this~~
15 9 ~~state for sale in this state, during the preceding calendar~~
15 10 ~~month; and any other information the director may require.~~
15 11 Every licensed distributor outside this state shall in like
15 12 manner file a return with the director showing for the
15 13 preceding calendar month the quantity and wholesale sales
15 14 price of each tobacco product shipped or transported to
15 15 retailers in this state to be sold by those retailers, ~~during~~
15 16 ~~the preceding calendar month and any other information the~~
15 17 ~~director may require.~~ Returns shall be made upon forms
15 18 ~~furnished or made available in electronic form~~ and prescribed
15 19 by the director and shall contain other information as the
15 20 director may require. Each return shall be accompanied by a
15 21 remittance for the full tax liability shown on the return,
15 22 less a discount as fixed by the director not to exceed five
15 23 percent of the tax. Within three years after the return is
15 24 filed or within three years after the return became due,
15 25 whichever is later, the department shall examine it, determine
15 26 the correct amount of tax, and assess the tax against the
15 27 taxpayer for any deficiency. The period for examination and
15 28 determination of the correct amount of tax is unlimited in the
15 29 case of a false or fraudulent return made with the intent to
15 30 evade tax, or in the case of a failure to file a return.
15 31 The three-year ~~period of~~ limitation ~~period~~ may be extended
15 32 by a taxpayer by signing a waiver agreement form ~~to be~~
15 33 provided by the department. The agreement must stipulate the
15 34 ~~period of~~ extension ~~period~~ and the tax period to which the
15 35 extension applies. The agreement must also ~~provide~~ stipulate
16 1 that a claim for refund may be filed by the taxpayer at any
16 2 time during the ~~period of~~ extension ~~period~~.
16 3 3. In addition to the tax or additional tax, the taxpayer
16 4 shall also pay a penalty as provided in section 421.27 and be
16 5 subject to the civil penalties set forth in sections 421.27;
16 6 453A.31, subsection 2; and 453A.50, subsection 3, as
16 7 applicable.
16 8 Sec. 43. Section 453A.46, Code 2007, is amended by adding
16 9 the following new subsection:
16 10 NEW SUBSECTION. 7. The director may require by rule that
16 11 reports be filed by electronic transmission.

16 12 Sec. 44. Section 453A.50, subsection 2, Code 2007, is
16 13 amended to read as follows:

16 14 2. ~~Any Except as otherwise provided, any person who~~
16 15 ~~otherwise~~ violates any provisions of this division shall be
16 16 guilty of a simple misdemeanor.

16 17 Sec. 45. Section 453A.50, Code 2007, is amended by adding
16 18 the following new subsection:

16 19 NEW SUBSECTION. 3. The following civil penalties shall be
16 20 imposed for a violation of this division:

16 21 a. A two hundred dollar penalty for the first violation.

16 22 b. A five hundred dollar penalty for a second violation
16 23 within three years of the first violation.

16 24 c. A thousand dollar penalty for a third or subsequent
16 25 violation within three years of the first violation.

16 26 The penalty imposed in this subsection is in addition to
16 27 the tax, penalty, and interest imposed in other sections of
16 28 this division. Each day a violation occurs counts as a new
16 29 violation for purposes of this subsection.

16 30 Sec. 46. NEW SECTION. 453A.51 ASSESSMENT OF COST OF
16 31 AUDIT.

16 32 The department may employ auditors or other persons to
16 33 audit and examine the books and records of a permit holder or
16 34 other person dealing in tobacco products to ascertain whether
16 35 the permit holder or other person has paid the amount of the
17 1 taxes required to be paid by the permit holder or other person
17 2 under the provisions of this chapter. If the taxes have not
17 3 been paid, as required, the department shall assess against
17 4 the permit holder or other person, as additional penalty, the
17 5 reasonable expenses and costs of the investigation and audit.

17 6 Sec. 47. Section 453C.1, subsection 10, Code 2007, is
17 7 amended to read as follows:

17 8 10. "Units sold" means the number of individual cigarettes
17 9 sold in the state by the applicable tobacco product
17 10 manufacturer, whether directly or through a distributor,
17 11 retailer, or similar intermediary or intermediaries, during
17 12 the year in question, as measured by excise taxes collected by
17 13 the state on packs bearing the excise stamp of the state or on
17 14 roll-your-own tobacco containers. The department of revenue
17 15 shall adopt rules as are necessary to ascertain the amount of
17 16 state excise tax paid on the cigarettes of such tobacco
17 17 product manufacturer for each year.

17 18 EXPLANATION

17 19 DIVISION I == TAX ADMINISTRATION. Code sections 15E.44,
17 20 subsection 1, and 15E.45, subsection 3, are amended to
17 21 eliminate the requirement that tax identification numbers of
17 22 investors (social security numbers) must be provided at the
17 23 time that a qualifying business or community-based seed
17 24 capital fund submits an application to the Iowa capital
17 25 investment board. The tax identification numbers are provided
17 26 at the time that the investors apply for a tax credit
17 27 certificate.

17 28 Code section 421.26 is amended to require cigarette permit
17 29 holders to be personally liable for unpaid cigarette taxes.
17 30 This requirement is the same as presently exists for
17 31 licensees, retailers, purchasers, users, and permit holders
17 32 for other taxes.

17 33 Code section 421.27, subsections 1 and 2, are amended to
17 34 allow a penalty waiver which reflects a legislative change
17 35 made to correct an inconsistent time frame for filing
18 1 disclaimers by the beneficiary of an estate refusing to take
18 2 the property.

18 3 Code section 422.7, subsection 32, is amended to provide
18 4 that withdrawals from the Iowa educational savings plan trust
18 5 that are not used for qualified education expenses must be
18 6 added back on the Iowa individual income tax return to the
18 7 extent that a deduction for a contribution was previously
18 8 allowed.

18 9 Code section 422.11S, subsections 1, 2, and 8, are amended
18 10 to allow noncash contributions to be made for purposes of the
18 11 school tuition organization tax credit with the noncash
18 12 contribution to be valued according to rules of the director.
18 13 These provisions are effective retroactively to January 1,
18 14 2007, for tax years beginning on or after that date.

18 15 Code section 422.11S, subsections 6 and 7, are amended to
18 16 change the deadlines for certified enrollment and notification
18 17 requirements for the school tuition organization tax credit to
18 18 be consistent with the notification requirements of Code
18 19 section 257.6 relating to the school aid formula.

18 20 Code section 422.12E is amended to state that the director
18 21 will determine which checkoffs will be included on the
18 22 individual income tax form in situations where additional

18 23 checkoffs in excess of the number allowed are enacted on the
18 24 same day.

18 25 Code section 422.13, subsection 5, is amended to allow
18 26 nonresident trusts and estates that are members of
18 27 partnerships, limited liability, trusts, or S corporations to
18 28 be included on an Iowa composite return.

18 29 Code section 422.16, subsection 12, is amended to provide
18 30 that withholding agents are not required to withhold state
18 31 income tax from a partner's pro rata share of income from a
18 32 publicly traded partnership if the partnership files an
18 33 informational return with the department concerning the
18 34 partner.

18 35 Code section 422.35, subsection 17, is amended to correct
19 1 the reference to federal taxable income for the deduction
19 2 allowed for the social security credit for corporation income
19 3 tax.

19 4 Code section 422.73, subsection 3, adopted as part of 2006
19 5 Iowa Acts, House File 2351, is repealed. Because any capital
19 6 or ordinary gain from the involuntary conversion relating to
19 7 eminent domain is exempt from Iowa individual or corporation
19 8 income tax, there is no need to file a claim for refund
19 9 relating to the repurchase of property when tax was not paid
19 10 on the gain in the initial instance.

19 11 Code section 422.75 is amended to update current reporting
19 12 requirements related to the annual report filed by the
19 13 department.

19 14 Code section 423.2, subsection 6, is amended to require
19 15 financial institutions unregulated by federal or Iowa
19 16 authorities to pay sales tax on service charges if they are
19 17 doing business in Iowa.

19 18 Code section 423.3, subsection 65, is amended to exempt
19 19 from sales tax charges paid for access to the internet by
19 20 means of any device and not solely by means of a computer
19 21 server.

19 22 Code section 423.3, subsection 80, is amended to exempt
19 23 from sales tax sales of building materials, supplies, or
19 24 equipment only to the extent those items are consumed in an
19 25 exempt construction project.

19 26 Code section 423.41 is amended to require a taxpayer
19 27 maintaining electronic records to provide those electronic
19 28 records relating to sales and use taxes to the director for
19 29 examination upon request.

19 30 Code sections 423A.4, 423B.1, subsection 6, and 423E.2,
19 31 subsection 5, are amended to grant the director the authority
19 32 to waive the requirement that a city or county notify the
19 33 director of the imposition, repeal, extension, or change in
19 34 the rate of the local option tax.

19 35 DIVISION II == CIGARETTE/TOBACCO TAXES. Code section
20 1 421B.3 is amended to impose civil penalties for the sale of
20 2 cigarettes below minimum price. These penalties are
20 3 consistent with those for violations of other cigarette and
20 4 tobacco tax laws and rules. The penalties are in addition to
20 5 other penalties for violating the chapter and moneys collected
20 6 are to be deposited into the state general fund.

20 7 Code section 453A.7 is amended to provide sufficient funds
20 8 for the department to purchase tax stamps for placement on
20 9 packages of cigarettes as evidence that the tax has been paid.

20 10 Code section 453A.13 is amended to require furnishing of
20 11 the names and addresses of all officers of the business
20 12 applying for a bond to obtain a cigarette permit. Code
20 13 section 453A.13 is further amended to permit the use of
20 14 cigarette retail permit forms approved by the department.

20 15 Code section 453A.13 is also amended to require the public
20 16 display of the permit at the place of business.

20 17 Code section 453A.15, subsection 2, requires cigarette
20 18 permit holders to maintain separate records for cigarette
20 19 sales that are sold at wholesale and sold at retail from the
20 20 same location.

20 21 Code section 453A.15 is amended to require the permit
20 22 holder to maintain detailed records and to give the director
20 23 the authority to require that cigarette reports be filed by
20 24 electronic transmission.

20 25 Code section 453A.18 authorizes the department to furnish
20 26 permit holders with electronic forms in lieu of paper forms.

20 27 Code section 453A.24 is amended to require common carriers
20 28 or other persons to provide monthly reports to the department
20 29 by electronic transmission if the director requires by rule.

20 30 Code section 453A.25, subsection 3, is amended to delete
20 31 the requirement that the director appoint a person whose only
20 32 responsibility is to administer cigarette and tobacco taxes.

20 33 Code section 453A.30 is amended to include the requirements

20 34 for the filing of cigarette reports the same as those for the
20 35 filing of cigarette returns relating to the cost of an audit.
21 1 Code section 453A.31 is amended to prohibit the sale of
21 2 cigarette stamps to distributors who do not file appropriate
21 3 returns or reports in a timely manner.
21 4 Code section 453A.32 is amended to make the cigarette
21 5 seizure provisions applicable to tobacco products.
21 6 Code section 453A.36, subsection 6, is amended to specify
21 7 that cigarette retailers receive a permit, not a license, to
21 8 do business in Iowa. The subsection is also amended to
21 9 prohibit the sale of cigarettes or tobacco through a vending
21 10 machine if other nontobacco products are also sold in the
21 11 vending machine.
21 12 Code section 453A.36 is amended to add new subsection 7A
21 13 that prohibits a holder of a retail permit to sell or
21 14 distribute any cigarettes or tobacco products, even a single
21 15 cigarette, without having the federal health warning on it.
21 16 Code section 453A.40, subsection 1, is amended to impose
21 17 the cigarette inventory tax on distributors, wholesalers, and
21 18 retailers that hold permits to sell cigarettes.
21 19 Code section 453A.45, subsection 5, is amended to give the
21 20 director the authority to require by rule that tobacco
21 21 transportation reports be filed electronically and makes the
21 22 failure or refusal to file or allow the examination of the
21 23 required reports a serious misdemeanor rather than a simple
21 24 misdemeanor.
21 25 Code section 453A.46 is amended to give the director the
21 26 authority to require by rule any additional information that
21 27 should be included on a return, adds language to reference
21 28 civil penalties, and gives the director the authority to
21 29 require by rule that distributors file tobacco reports
21 30 electronically.
21 31 Code section 453A.50, subsection 2, is amended to specify
21 32 that unless otherwise stated, violations of the tobacco
21 33 products division are simple misdemeanors.
21 34 Code section 453A.50 is also amended to impose civil
21 35 penalties for violation of the tobacco tax laws and
22 1 regulations. These penalties are consistent with penalties
22 2 that are applicable to cigarettes.
22 3 Code section 453A.51 is enacted to make tobacco products
22 4 tax enforcement provisions similar to cigarette tax
22 5 enforcement provisions related to the cost of an audit.
22 6 Code section 453C.1 is amended to provide a more specific
22 7 definition of "units sold" for the purposes of the tobacco
22 8 product manufacturers' obligations which is the basis for
22 9 determining the amount that a nonparticipating manufacturer in
22 10 the tobacco master settlement agreement must place in escrow.
22 11 The amended definition provides that "units sold" is measured
22 12 only by those packs bearing an excise stamp of the state.
22 13 LSB 1264HV 82
22 14 mg:sc/je/5